

§ 242a.3

President, by and with the advice and consent of the Senate;

(2) The Secretary of Defense, or his designee, an ex officio member;

(3) The surgeons general of the uniformed services, ex officio members; and

(4) The Dean (President) of the University, an ex officio non-voting member.

(b) *Board Representative* means the individual named as Executive Secretary by the Board, or any person officially designated by the Board.

(c) *Chairman* means the presiding officer of the Board, designated by the President, as specified in Title 10, U.S. Code 2113.

(d) *Committee* means any formally designated subdivision of the Board, consisting of at least two Board members, authorized to act on behalf of the Board, including, the Board's standing committees (the Executive, Administrative Affairs, Educational Affairs, Fine Arts and Gifts, and Nominating Committees) and any ad hoc committees appointed by the Board for special purposes.

(e) *Meeting* means the deliberations of at least a majority of all Regents in being or for committees, the deliberations of at least the number of individual voting members of the Board required to take action on behalf of the Board, where such deliberations determine or result in the joint conduct or disposition of official business of the Board, but does not include:

(1) Deliberations to open or close a meeting, or to release or withhold information, required or permitted by § 242a.5 or § 242a.6;

(2) Notation voting or similar consideration of matters whether by circulation of material to members individually in writing, or polling of members individually by telephone or telegram; and

(3) Instances where individual members, authorized to conduct business on behalf of the Board or to take action on behalf of the Board, meet with members of the public or staff. Conference telephone calls that involve the requisite number of members, and otherwise come within the definition, are included.

32 CFR Ch. I (7-1-99 Edition)

(f) *Member* means a member of the Board of Regents.

(g) *Public Announcement* means posting notices on the Board's public notice bulletin board, and mailing announcements to persons on a mailing list maintained for those who desire to receive notices of Board meetings, and who pay such fee as may be determined by the Executive Secretary, not to exceed \$10.00 per year, to cover the costs involved in such distribution.

(h) *Staff* includes the employees of the USUHS, other than the members of the Board.

[42 FR 12853, Mar. 7, 1977, as amended at 42 FR 63775, Dec. 20, 1977]

§ 242a.3 Open meetings.

(a) Members shall not jointly conduct or dispose of business of the Board of Regents other than in accordance with these procedures. Every portion of every meeting of the Board of Regents or any committee of the Board shall be open to public observation subject to the exceptions provided in § 242a.4.

(b) Open meetings will be attended by members of the Board, certain staff, and any other individual or group desiring to observe the meeting. The public will be invited to observe and listen to the meeting but not to record any of the discussions by means of electronic or other devices or cameras unless approval in advance is obtained from the Executive Secretary. The public will not participate in the meeting unless public participation is invited by the Board.

(c) The Executive Secretary shall be responsible for making physical arrangements that provide ample space, sufficient visibility, and adequate acoustics for public observation of meetings.

§ 242a.4 Grounds on which meetings may be closed, or information may be withheld.

Except in a case where the Board or a committee finds that the public interest requires otherwise, the open meeting requirement set forth in the second sentence of § 242a.3(a) shall not apply to any portion of a Board or committee meeting, and the informational disclosure requirements of §§ 242a.5 and

Office of the Secretary of Defense

§ 242a.5

242a.6 shall not apply to any information pertaining to such meeting otherwise required by this part to be disclosed to the public, where the Board or committee as applicable, properly determines that such portion or portions of its meetings or the disclosure of such information is likely to:

(a) Disclose matters that are:

(1) Specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy; and

(2) Properly classified pursuant to such executive order;

(b) Relate solely to the internal personnel rules and practices of the USUHS;

(c) Disclose matters specifically exempted from disclosure by statute (other than Title 5, U.S. Code 552), provided that such statute:

(1) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(2) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(d) Disclose trade secrets and commercial or financial information obtained from a person, privileged or confidential;

(e) Involve accusing any person of a crime or formally censuring any person;

(f) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(g) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential

information furnished only by the confidential source;

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel;

(h) Disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(i) Disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action, except that this subsection shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(j) Specifically concern the issuance of a subpoena, or USUHS participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the USUHS of a particular case of formal adjudication pursuant to the procedures in Title 5, United States Code, section 554 or otherwise involving a determination on the record after opportunity for a hearing.

§ 242a.5 Procedure for announcing meetings.

(a) Except to the extent such information is exempt from disclosure under the provisions of § 242a.4, in the case of each Board or committee meeting, the Board representative, shall make public announcement, at least 7 days before the meeting, of the following:

(1) Time of the meeting;

(2) Place of the meeting;

(3) Subject matter of the meeting;

(4) Whether the meeting or parts thereof are to be open or closed to the public; and

(5) The name and telephone number of the person designated by the Board or committee to respond to requests for information about the meeting.

(b) The 7 day period for the public announcement required by paragraph (a)